IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.31655 of 1998

Dated: 14-11-2007

Between:

Vinod Kumar Jain @ Vinod Jain, s/o Ashrafi Alilal Jain,
Owner of Lorry No.MP-06-2838,
r/o Banmera, Morina District,
Madhya Pradesh.

... Petitioner

and

1. The Authorized Officer (District Forest Officer)
   Nellore and another.

... Respondents

ORDER:

Petitioner, who is the owner of a lorry bearing No.MP-06-2838, approached this Court and filed this writ petition questioning the order dated 27-08-1998 passed in C.M.A.No.20 of 1994 by the District Judge, Nellore, confirming the order dated 25-04-1994 passed in UDOR.No.34/93-94 by the first respondent.

2. Facts, in brief, are: Petitioner is the owner of the lorry in question and during December, 1993 his lorry was hired by Kerala Transport

Company, Gwalior of Madhya Pradesh and the same was sent by the said Company from Gwalior with CEAT tyres to Madras and the said consignment was sent to a truck supplier, which is a Kerala Transport Company, Madras and is nothing but a contractor of CEAT tyres. The lorry was sent from Madhya Pradesh on 18-01-1994 to Madras, driven by one Mr. Muralilal Sharma of Dholpur of Rajasthan. On 26-01-1994 at about 9-00 P.M, the Conservator
of Forest, Venkatagiri along with his staff intercepted the lorry and
found 201 red sander logs hidden under 60 black-dust filled bags. The forest officials seized the lorry as well as the red sanders and issued notice dated 08-02-1994 to the petitioner calling upon him to appear before first respondent on 09-03-1994 and petitioner got filed his representation through his advocate. Later petitioner through his Special Power of Attorney also got issued registered notice dated 15-03-1994. The first respondent passed an order dated 25-04-1994 in UDOR.No.34/93-94, confiscating the lorry in question. Assailing the said order, the petitioner filed C.M.A.No.20 of 1994 before the District Judge, Nellore, who confirmed the same vide order dated 27-08-1998. Questioning the said orders, the present writ petition has been filed.

3. Heard learned counsel for the parties.

4. There is absolutely no material on record to show that the petitioner is hand-in-glove with the driver of the lorry in question and that at the instance of the petitioner only the driver was smuggling red sanders. In fact, the driver was not caught red handed and even according to the forest officials he immediately ran away. In the absence of any statement made by the alleged driver it is not known as to how the authorized officer has come to the conclusion that the petitioner is having knowledge about the smuggling of red sanders. It is the case of the petitioner that the vehicle was engaged to carry CEAT tyres from Gwalior to Chennai and thereafter from Chennai to Tirupathi and the same appears to be correct. A person, who is from Madhya Pradesh State, cannot be said to be having knowledge about the smuggling of red sanders and the explanation offered by the petitioner appears to be correct.

5. Accordingly, the writ petition is allowed and the vehicle is not

liable for confiscation. However, as the vehicle in question was released on a condition of the petitioner furnishing a bank guarantee in a sum of Rs.1,00,000/-, the said bank guarantee shall be returned to the petitioner forthwith. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.14-11-2007
GLV